

FOUO MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Anniston, Alabama)	)	MB Docket No. 04-79
	)	RM-10873
	)	RM-10874
)	
(Somerton, Arizona)	)	MB Docket No. 04-83
	)	RM-10878
)	
(Sutter Creek, California)	)	MB Docket No. 04-85
	)	RM-10880
	)	RM-10881
)	
(Westley, California)	)	MB Docket No. 04-86
	)	RM-10882
	)	RM-10883
	)	RM-10884
	)	RM-10885
)	
(Olathe, Colorado)	)	MB Docket No. 04-87
	)	RM-10886
)	
(Olathe, Colorado)	)	MB Docket No. 04-88
	)	RM-10887
)	
(Horseshoe Beach, Florida)	)	MB Docket No. <u>04-89</u>
	)	RM-10888
)	
(Live Oak, Florida)	)	MB Docket No. 04-90
	)	RM-10889
)	
)	
(Asbury, Iowa)	)	MB Docket No. 04-91
	)	RM-10890
	)	RM-10891
)	
(Keosauqua, Iowa)	)	MB Docket No. 04-92
	)	RM-10892
	)	RM-10893
)	
(Merville, Iowa)	)	MB Docket No. 04-93
	)	RM-10894
)	
)	

(Rudd, Iowa)	)	MB Docket No. 04-94
	)	RM-10895
)	
(Weiser, Idaho)	)	MB Docket No. 04-95
	)	RM-10896

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 14, 2004

Released: July 20, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it *Notices of Proposed Rule Making*¹ setting forth thirteen Petitions for Rule Making to amend the FM Table of Allotments, Section 73.202(b) of the rules, to reserve certain vacant FM allotments for noncommercial educational ("NCE") use.

2. As stated in the *Notice*, the Commission established revised criteria by which a rulemaking proponent may reserve an FM allotment for NCE use that was originally limited to future allotment proceedings.² Subsequently, the Commission extended the expanded criteria to existing vacant FM allotments for which a Notice of Proposed Rule Making had been released prior to August 7, 2000, the effective date of the *NCE Report and Order*.³ Under this expanded criteria, a proponent must demonstrate that it is technically precluded from using a reserved channel (Channels 201 through 220) and the proposal would provide a first and/or second NCE radio service to at least 10 percent of the population within the 1 mV/m (60 dBu) contour of the proposed station.

3. We find that the public interest would be served by reserving the above-captioned allotments for NCE use. Each petitioner has expressed a continuing interest in applying for an FM allotment reserved for NCE use, is eligible to do so, and has demonstrated compliance with the expanded criteria set forth in the *NCE Report and Order*. Accordingly, we adopt each proposal as originally proposed. These are as follows:

¹ *Anninston, AL, Somerton, AZ, Sutter Creek, CA, Westley, CA, Olathe, CO, Horseshoe Beach, FL, Live Oak, FL, Asbury, IA, Keosauqua, IA, Merville, IA, Rudd, IA, and Weiser, ID*, 19 FCC Rcd 5333 (MB 2004) ("Notice").

² In the *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 15 FCC Rcd 7386 (2000) ("NCE Report and Order"). Previously, the Commission would only reserve a channel in the nonreserved FM band (Channels 221 through 300) if the petitioner demonstrated that no reserved channel could be used in the noncommercial reserve band (Channels 201 through 220) without causing prohibited interference to a Channel 6 TV station or a foreign broadcast station.

³ *Reexamination of the Comparative Standards for Noncommercial Educational Applicants* ("NCE Second Report and Order"), 18 FCC Rcd 6691 (2003). In a Public Notice released September 30, 2003, we invited petitions for rule making to reserve vacant FM allotments for NCE use pursuant to the *NCE Second Report and Order*.³ In response to the Public Notice, we received 129 petitions for the reservation of 91 allotments.

A. MB Docket No. 04-79; RM-10873, RM-10874

Action: At the request of American Family Association, we are reserving vacant Channel 261C3 at Anniston, Alabama for NCE use.

Coordinates: 33-40-51 NL and 85-48-56 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 261C3 at Anniston, if reserved for NCE use. Preston W. Small filed informational comments. No other comments were received in response to this proceeding.

B. MB Docket No. 04-83; RM-10878

Action: At the request of Radio Bilingue, Inc., we are reserving vacant Channel 260C3 at Somerton, Arizona for NCE use.

Coordinates: 32-35-00 NL and 114-35-05 WL

Additional Information: American Family Association, Inc. and Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 260C3 at Somerton, if reserved for NCE use. No other comments were received in response to this proceeding.

C. MB Docket No. 04-85; RM-10880, RM-10881

Action: At the request of American Family Association and Calvary Chapel of Amador County, we are reserving vacant Channel 298A at Sutter Creek, California for NCE use.

Coordinates: 38-23-30 NL and 120-48-06 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 298A at Sutter Creek, if reserved for NCE use. No other comments were received in response to this proceeding.

D. MB Docket No. 04-86; RM-10882, RM-10883, RM-10884, RM-10885

Action: At the request of American Family Association, Radio Bilingue, Inc., and Starboard Media Foundation, Inc., we are reserving vacant Channel 238A at Westley, California for NCE use.

Coordinates: 37-28-13 NL and 121-11-14 WL

Additional Information: No other comments were received in response to this proceeding.

E. MB Docket No. 04-87; RM-10886

Action: At the request of Calvary Chapel of Montrose, we are reserving vacant Channel 270C2 at Olathe, Colorado for NCE use.

Coordinates: 38-36-18 NL and 107-58-54 WL

Additional Information: United Ministries and Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 270C2 at Olathe, if reserved for NCE use. No other comments were received in response to this proceeding.

F. MB Docket No. 04-88; RM-10887

Action: At the request of Calvary Chapel of Montrose, we are reserving vacant Channel 293C at Olathe, Colorado for NCE use.

Coordinates: 38-37-03 NL and 107-58-33 WL

Additional Information: United Ministries and Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 293C at Olathe, if reserved for NCE use. No other comments were received in response to this proceeding.

G. MB Docket No. 04-89; RM-10888

Action: At the request of Living Proof, Inc., we are reserving vacant Channel 234C3 at Horseshoe Beach, Florida for NCE use.

Coordinates: 29-26-28 NL and 83-17-15 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 234C3 at Horseshoe Beach, if reserved for NCE use. No other comments were received in response to this proceeding.

H. MB Docket No. 04-90; RM-10889

Action: At the request of Starboard Media Foundation, Inc., we are reserving vacant Channel 259A at Live Oak, Florida for NCE use.

Coordinates: 30-13-12 NL and 82-54-00 WL

Additional Information: No other comments were received in response to this proceeding.

I. MB Docket No. 04-91; RM-10890, RM-10891

Action: At the request of American Family Association and Starboard Media Foundation, Inc., we are reserving vacant Channel 238A at Asbury, Iowa for NCE use.

Coordinates: 42-30-18 NL and 90-40-46 WL

Additional Information: No other comments were received in response to this proceeding.

J. MB Docket No. 04-92; RM-10892, RM-10893

Action: At the request of University of Iowa and Starboard Media Foundation, Inc., we are reserving vacant Channel 271C3 at Keosauqua, Iowa for NCE use.

Coordinates: 40-43-48 NL and 91-57-48 WL

Additional Information: No other comments were received in response to this proceeding.

K. MB Docket No. 04-93; RM-10894

Action: At the request of Starboard Media Foundation, Inc., we are reserving vacant Channel 246A at Merville, Iowa for NCE use.

Coordinates: 42-29-11 NL and 96-00-36 WL

Additional Information: No other comments were received in response to this proceeding.

L. MB Docket No. 04-94; RM-10895

Action: At the request of American Family Association, we are reserving vacant Channel 268A at Rudd, Iowa for NCE use.

Coordinates: 43-07-34 NL and 92-54-20 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 268A at Rudd, if reserved for NCE use. No other comments were received in response to this proceeding.

M. MB Docket No. 04-95; RM-10896

Action: At the request of Boise Community Radio Project, Inc., we are reserving vacant Channel 280C1 at Weiser, Idaho for NCE use.

Coordinates: 44-20-39 NL and 117-07-14 WL

Additional Information: In response to the *Notice*, Boise Community Radio Project, Inc. included in its comments verification that the statements contained in its petition are accurate to the best of its knowledge in compliance with § 1.52 of the Commission's rules. Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 280C1 at Weiser, if reserved for NCE use. No other comments were received in response to this proceeding.

4. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS ORDERED, That effective September 7, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Anniston, Alabama	*261C3
Somerton, Arizona	*260C3
Sutter Creek, California	*298A
Westley, California	*238A
Olathe, Colorado	*270C2, *293C
Horseshoe Beach, Florida	*234C3
Live Oak, Florida	251C2, *259A, 291A
Asbury, Iowa	*238A, 277C3
Keosauqua, Iowa	*271C3
Moville, Iowa	*246A
Rudd, Iowa	*268A
Weiser, Idaho	*280C1

5. The window period for filing noncommercial educational applications for these allotments will not be opened at this time. Instead, the issue of opening a filing window for these noncommercial allotments will be addressed by the Commission in a subsequent order.

6. IT IS FURTHER ORDERED, That the aforementioned proceedings ARE TERMINATED.

7. For further information concerning a specific docket, contact Rolanda F. Smith, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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Media Bureau